

INLAND REVENUE DEPARTMENT AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Inland Revenue Department Act 1974.

Clause 1 relates to the Short Title.

Clause 2 amends the definition of the term "Officer of the Department" in section 2 of the principal Act to include any person employed in the service of any overseas country or territory who is for the time being attached or seconded to the Department.

Clause 3 remedies a deficiency in regard to the continuity of delegations in the event of the death in office of the Commissioner by whom they were made.

Clause 4 amends the secrecy provisions (section 13).

Subclause (1) amends subsection (1) to make it clear that the Department may supply information to the Accident Compensation Commission in respect of the verification of income for the purposes of earnings-related compensation.

Subclause (2) adds District Officers of Inland Revenue to the list of persons who may accept declarations of secrecy from members of the Staff.

Subclause (3) provides that any officer of the Department who has made a declaration of secrecy before the passing of this Bill to maintain secrecy in conformity with section 13 of the principal Act is bound to maintain that secrecy in conformity with the section as amended by this clause.

Subclause (4) brings subsection (3) of the section in line with subsection (1) as amended by *subclause (1)*.

Subclause (5) omits the reference to any officer of the Department authorised by the Commissioner. This authorisation is given under the general authority of the delegation provision, section 11 of the principal Act.

Subclause (6): At present section 13 (4) (a) of the principal Act enables the necessary information to be supplied by the Department for the purposes of a prosecution for an offence under any New Zealand Act in relation to the misappropriation or attempted misappropriation by any person of money payable by or to the Department. This amendment extends the provision to include prosecution for the same purpose in any overseas country.

Subclause (7) extends the secrecy provisions relating to the New Zealand Superannuation Corporation to include the National Provident Fund Board in relation to its functions under Part I of the Superannuation Schemes Act 1976.

Clause 5 amends section 17 of the principal Act relating to information to be supplied to the Commissioner.

Subclause (1): The third amendment in *paragraph (a)* is consequential upon the amendment referred to in the next paragraph to this note and the amendment made by *subclause (2)*.

The second amendment in *paragraph (d)* provides that a certificate by the Commissioner that any information has not been received from any person when required under the section shall no longer be sufficient evidence, in the absence of proof to the contrary, that that person had the information in his knowledge, possession, or control at the time when so required. The amendment in *paragraph (e)* provides that the Court shall take judicial notice of the signature of the Commissioner to the certificate.

The other amendments omit references to authorised officers. This authorisation is given under the general authority of the delegation provision, section 11 of the principal Act.

Subclause (2) provides that no person shall be convicted of an offence against the section if he proves that, at the time he was required to furnish the information, that information was not within his knowledge, possession, or control.

Clauses 6 and 7 amend sections 18 and 19 of the principal Act to bring those sections into line with other provisions of the Act and to make it clear that the sections only apply in respect of functions lawfully conferred on the Commissioner.

Clause 8: At present section 21 (11) provides that every party to a prosecution has to give notice of intention to tender documentary evidence of financial or property transactions. This amendment provides that only the Commissioner has to give such notice.

Clause 9 inserts a new substantive section in the principal Act giving the Commissioner power to prescribe forms for the purposes of the Inland Revenue Acts.

Clause 10 enables not only, as at present, a barrister or solicitor of not less than 7 years' practice to be appointed as a Taxation Review Authority, but also a Magistrate.

Clause 11 provides that, in the absence of the Authority, the Registrar to the Authority may adjourn the sitting, or in his absence, the Deputy Registrar to the Authority may do so. At present the sitting may only be adjourned by the Authority.

Clause 12 amends the provisions relating to the stating of a case by the Authority to the Supreme Court.

At present the case is drafted by the Authority but the amendment provides that the case is to be drafted by the person on whose application the Authority is to state the case or, where the case is to be stated by the Authority on his own motion, it is to be drafted by the Commissioner.

Clause 13 substitutes a new section 43 in the principal Act relating to the procedure in respect of appeals to the Supreme Court.

The principal amendments are as follows:

- (a) Making it clear that the determination is subject to appeal where the amount of tax or duty involved in the appeal to the Supreme Court is \$1,000 or more. There is no change in the provision that an appeal may be made on a question of law only, irrespective of the amount involved:
- (b) The case is to be drafted by the appellant instead of the Authority:
- (c) Notice of appeal is to be given to the Authority within 30 days after the giving by the Authority of his decision in writing in relation to the determination appealed from, and not within 30 days of the determination itself.

Clause 14 makes minor drafting amendments to provisions relating to the Authority.

Hon. Mr Wilkinson

INLAND REVENUE DEPARTMENT AMENDMENT

ANALYSIS

Title	8. Evidence of financial or property transactions
1. Short Title	9. Power of Commissioner to prescribe forms
2. Interpretation	10. Establishment of Taxation Review Authorities
3. Delegation of powers by Commissioner	11. Sittings of Authority
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A BILL INTITULED

An Act to amend the Inland Revenue Department Act 1974

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. **Short Title**—This Act may be cited as the Inland Revenue Department Amendment Act 1976, and shall be read together with and deemed part of the Inland Revenue Department Act 1974* (hereinafter referred to as the principal
10 Act).

2. **Interpretation**—Section 2 of the principal Act is hereby amended by adding to the definition of the term “officer of the Department” the words “and any person employed in the service of the Government of any overseas country or territory who is for the time being attached or seconded to the
15 Department”.

*1974, No. 133

No. 58—1

3. Delegation of powers by Commissioner—Section 11 (5) of the principal Act is hereby amended by omitting the words “it shall continue to have effect as if made by his successor in office”, and substituting the words “that delegation shall, subject to subsection (6) of this section, continue in force according to its tenor.” 5

4. Officers to maintain secrecy—(1) Section 13 (1) (a) of the principal Act is hereby amended by omitting the words “the powers, duties, and functions of the Commissioner under those Acts, or of carrying into effect any other enactment imposing taxes or duties payable to the Crown; and”, and substituting the words “the Acts referred to in subparagraphs (i) and (ii) of this paragraph or any other enactment imposing taxes or duties payable to the Crown, or of carrying into effect the powers, duties, and functions of the Commissioner under the New Zealand Superannuation Act 1974; and”. 10 15

(2) Section 13 (1) (b) of the principal Act is hereby amended by inserting, after the words “District Commissioner,”, the words “or a District Officer.”. 20

(3) Section 13 of the principal Act is hereby further amended by adding, after subsection (2), the following subsection:

“(2A) Where, before the commencement of the Inland Revenue Department Amendment Act 1976, any officer of the Department has made a declaration of fidelity or secrecy under subsection (1) (b) of this section, or is deemed to have made the declaration under that subsection pursuant to subsection (2) of this section, that declaration shall, in either case, be deemed to be a declaration to maintain secrecy, as from the commencement of that Act, in accordance with this section as amended by section 4 of that Act.” 25 30

(4) Section 13 (3) of the principal Act is hereby amended by repealing paragraphs (a) and (b), and substituting the following paragraphs: 35

“(a) Carrying into effect—

“(i) The Inland Revenue Acts, including all Acts, whether repealed or not, at any time administered by the Department; or

“(ii) The Accident Compensation Act 1972; or 40

“(iii) Any other enactment imposing taxes or duties payable to the Crown; or

“(b) Carrying into effect the powers, duties, and functions of the Commissioner under the New Zealand Superannuation Act 1974.”

5 (5) Section 13 (4) of the principal Act is hereby amended by omitting the words “or any officer of the Department authorised by him in that behalf”.

(6) Section 13 (4) (a) of the principal Act is hereby amended by inserting, after the words “any Act”, the words “of the General Assembly of New Zealand or under the law of any country or territory outside New Zealand”.

(7) Section 13 of the principal Act is hereby further amended by adding, after subsection (5), the following subsection:

15 “(6) For the purposes of this section and section 14 of this Act, unless the context otherwise requires, every reference to the New Zealand Superannuation Act 1974 shall be deemed to include a reference to Part I of the Superannuation Schemes Act 1976, and every reference to the New Zealand Superannuation Corporation shall be deemed to include a
20 reference to the National Provident Fund Board in relation to its functions under Part I of the Superannuation Schemes Act 1976.”

5. Information to be furnished on request of Commissioner—(1) Section 17 of the principal Act is hereby
25 amended—

(a) By omitting from subsection (1) the words “or by any officer of the Department authorised by him in that behalf”, the words “or officer”, and the words “and which information, books, or documents may be in
30 the knowledge, possession, or control of that person”:

(b) By omitting from subsections (3), (5), and (6), the words “or any authorised officer”:

35 (c) By omitting from subsection (4) the words “or any authorised officer”, and also the words “or that other officer”:

(d) By omitting from subsection (7) the words “or by any authorised officer” in both places where they occur, and also the words “that the defendant had that information or those books or documents in his
40 knowledge, possession or control at the time when so required, and”;

(e) By adding to subsection (7) the words “, and the signature to the certificate shall be judicially noticed”:

(f) By omitting from subsection (8) the words “or authorised officer” in both places where they occur.

(2) Section 17 (8) of the principal Act (as amended by subsection (1) (f) of this section) is hereby further amended by adding the following proviso: 5

“Provided that no person shall be convicted of an offence under this section if he proves that he did not, as and when he was required by the Commissioner to furnish the information or to produce the books or documents, have that information or those books or documents in his knowledge, possession, or control.” 10

6. Inquiry before Magistrate—Section 18 (1) of the principal Act is hereby amended by inserting, after the word “function”, the word “lawfully”. 15

7. Inquiry by Commissioner—Section 19 (1) of the principal Act is hereby amended by inserting, after the word “function”, the word “lawfully”.

8. Evidence of financial or property transactions— (1) Section 21 of the principal Act is hereby amended by repealing subsection (11), and substituting the following subsection: 20

“(11) Where in any proceedings for an offence against the Land and Income Tax Act 1954 or where in any proceedings in the course of which the Commissioner has the burden of proving any such offence, the Commissioner intends to tender in evidence under this section any record or copy of any record or entry in any record or in a copy of any record he shall give to the other party or parties, as the case may be, notice in writing thereof not less than 7 days before the hearing, specifying the record or copy or entry intended to be tendered in evidence.” 25 30

(2) Section 21 (12) of the principal Act is hereby consequentially amended by omitting the words “any party”, and substituting the words “the Commissioner”. 35

9. Power of Commissioner to prescribe forms—The principal Act is hereby further amended by inserting, after section 22, the following section:

“22A. (1) For the purposes of the Inland Revenue Acts and any other Acts administered by the Department, the Commissioner may from time to time prescribe any forms that are not otherwise specifically prescribed.

5 “(2) The production by the Commissioner of any document purporting to be a prescribed form or an extract from a prescribed form or a copy of any such form or extract shall in all Courts and in all proceedings (including proceedings before a Taxation Review Authority) be sufficient evidence of the
10 fact that the form was prescribed.”

10. Establishment of Taxation Review Authorities—Section 23 (3) of the principal Act is hereby amended by inserting, after the word “being”, the words “a Magistrate or”.

11. Sittings of Authority—Section 37 of the principal
15 Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) An Authority may adjourn any sitting from time to time or place to place either before the time of the sitting or at the sitting.

20 “(3) During the absence of the Authority or his inability to act, from any cause whatever, the Registrar to the Authority or, where the Registrar is also absent or unable to act from any cause whatever, the Deputy Registrar to the Authority shall have the same powers as the Authority to
25 adjourn a sitting.”

12. Stating case for Supreme Court—Section 41 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

30 “(1A) The Authority shall give notice to the Commissioner and the objector of the Authority’s intention to state a case under this section, specifying the registry of the Supreme Court in which the case is to be filed.

“(1B) Subsections (3), (4), (5), (6), and (7) of section 43 of this Act shall apply to a case stated under this section
35 as if the case were an appeal to the Supreme Court on a question of law in which the party on whose application the Authority intends to state the case, or the Commissioner where the Authority intends to state the case of his own motion, is the appellant, except that the time for submitting a case to the
40 Authority shall be within 30 days after the date of the giving by the Authority of notice under subsection (1A) of this section, or such further time as the Authority may allow.”

13. Appeals to Supreme Court—The principal Act is hereby further amended by repealing section 43, and substituting the following section:

“43. (1) The determination of an Authority on any objection shall be subject to appeal to the Supreme Court in any case where— 5

“(a) The amount of tax or duty involved in the appeal to the Supreme Court is \$1,000 or more; or

“(b) The appeal relates to questions of law only,— but shall be final and conclusive in all other cases. 10

“(2) In the case of such an appeal the appellant shall, within 30 days after the date of the giving by the Authority of his decision in writing in relation to the determination appealed from, file with the Authority a notice of appeal specifying the registry of the Supreme Court in which the appellant intends to file the case on appeal, and, in the case of an appeal by an objector, shall give security for the costs of the appeal to such amount and in such form as may be fixed by the Authority. 15

“(3) The appellant shall prepare a case setting forth the facts and the questions of law or fact arising for the determination of the Supreme Court, and shall, within 9 months after the date of the giving by the Authority of his decision in writing relating to the determination appealed from, submit the case to the Authority whose determination is appealed from. 20 25

“(4) An Authority may return to an appellant a case submitted to the Authority under subsection (3) of this section or further submitted under this subsection for such amendment as the Authority shall direct, and the appellant shall further submit the case to the Authority within such time as the Authority shall allow. 30

“(5) Where an Authority accepts a case submitted or further submitted to him under subsection (3) or subsection (4) of this section he shall sign the case, and shall deliver the case so signed to the appellant. 35

“(6) The appellant shall, within 14 days after the date of receipt of the case delivered by the Authority pursuant to subsection (5) of this section, transmit it to the Registrar of the Supreme Court in the registry specified in the notice of appeal, and the Registrar shall thereupon enter the appeal for hearing at the first practicable sitting of the Court. 40

“(7) On the hearing of the appeal the Supreme Court may, if it thinks fit, cause the case so stated to be sent back to the Authority for amendment, and subsections (4), (5), and (6) of this section shall, with any necessary modifications, apply as if the case had been submitted to the Authority under subsection (3) of this section.”

14. Taxation Review Authority—The principal Act is hereby further amended—

- 10 (a) By omitting from sections 33 (1), 34 (1), 38 (1), 41 (1), and 42 (2) the word “its”, wherever it occurs, and substituting in each case the word “his”:
- (b) By omitting from section 35 (1) the word “it” in both places where it occurs, and substituting in both cases the word “him”:
- 15 (c) By omitting from section 39 the word “it”, and substituting the word “he”.